



Paper No. 5

William Greener
Law Department
Bausch & Lomb Incorporated
One Bausch & Lomb Place
Rochester NY 14604

COPY MAILED

JUN 06 2002

OFFICE OF PETITIONS

In re Application of
Cox et al.
Application No. 10/013,987
Filed: December 11, 2001
Attorney Docket No. P03031

:
:
: DECISION GRANTING PETITION
:
:

This is a decision on the petition filed March 1, 2002, requesting that Figures 2a-c, 3 and 4 described in the specification be accorded a filing date of December 11, 2001, as part of the original disclosure.

On December 11, 2001, applicants filed the above-identified application. On January 15, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of December 11, 2001, and advising applicants that Figures 2a-c, 3 and 4 described in the specification appeared to have been omitted.

In response, on March 1, 2002, applicants filed the present petition, a copy of three (3) sheets of drawings and an authorization to charge the petition fee. The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of three (3) sheets of drawings on December 11, 2001.

In the present petition, applicants request that the application, including Figures 2a-c, 3 and 4, be accorded a filing date of December 11, 2001, and the petition fee be refunded.

Upon review of the record, Figures 2a-c, 3 and 4, deposited on December 11, 2001, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 11, 2001, included Figures 2a-c, 3 and 4, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 2a-c, 3 and 4, was complete on filing and will be granted a filing date of December 11, 2001.

Accordingly, the petition is granted.

The Notice was sent in error and is hereby vacated. Accordingly, the \$130.00 petition fee is unnecessary and will be credited to Deposit Account No. 02-1425.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 11, 2001, using the Figure 1 submitted on December 11, 2001, and Figures 2a-c, 3 and 4, submitted on March 1, 2002.

Any inquiries related to this decision should be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy